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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,206	12/21/2001	David J. Evans	NTL-3.2.163/3604 (13398RO	8467

34845 7590 03/04/2005

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EXAMINER	
TORRES, JOSEPH D	

ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,206	EVANS ET AL.	
	Examiner	Art Unit	
	Joseph D. Torres	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 12/21/2001. These drawings are accepted.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Claim 1 introduces new matter, "a method of determining **content type** by searching for a character pattern known to be associated with the **content type**" [Emphasis Added]. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Nowhere does the specification even use the term "content type". Independent claims 13, 21 and 22 recite substantially similar language.

Response to Arguments

3. Applicant's arguments filed 12/21/2004 have been fully considered but they are not persuasive.

The Applicant contends, "Wilkes teaches using a checksum to verify the integrity of data. Col. 1, lines 62-65."

That is not correct. The Examiner asserts that col. 1, lines 62-65 in Wilkes teaches that a checksum that is typically used to very data is used to implement the predetermined signature used to identify a predetermined vector pattern as described in the Abstract of Wilkes (Note: a character is represented by 4 bits hence a character pattern is comprised of bits just as a vector pattern). Figure 4 and col. 3, lines 57-65 in Wilkes explicitly teaches that a stream of candidate vector patterns are tested to verify if they match a particular pattern (step 411 in Figure 4) by comparing the checksum (step 403 in Figure 4) obtained for a candidate vector pattern (step 401 in Figure 4) to the precomputed checksum for the particular pattern to determine if the checksum obtained for the vector pattern matches the precomputed checksum for the particular pattern (step 405 in Figure 4) so that a match is detected if and only if the contents of the candidate vector pattern match the contents of the particular pattern.

In response to applicant's arguments, the recitation "claim 1 now recites 'a method of determining content type by searching for a character pattern known to be associated with the content type'" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The Examiner asserts that that, with regard to claim 21, Heegard, in an analogous art, teaches shifting a portion of a data stream into a shift registers to search and find a synchronization pattern (see Abstract) using a CRC checksum. Note: Wilkes teaches the use of checksums for searching a data stream of pattern vectors for a particular pattern, but does not teach a particular checksum nor a means to produce the checksums in the Wilkes patent whereas Heegard teaches a means for producing a required element, the checksums, of the Wilkes patent.

The Examiner asserts that that, with regard to claim 22, Wilkes teaches that a checksum that is typically used to very data is used to implement the predetermined signature used to identify a predetermined vector pattern as described in the Abstract of Wilkes (Note: a character is represented by 4 bits hence a character pattern is comprised of bits just as a vector pattern). Figure 4 and col. 3, lines 57-65 in Wilkes explicitly teaches that a stream of candidate vector patterns are tested to verify if they match a particular pattern (step 411 in Figure 4) by comparing the checksum (step 403 in Figure 4) obtained for a candidate vector pattern (step 401 in Figure 4) to the precomputed checksum for the particular pattern to determine if the checksum obtained for the vector pattern matches the precomputed checksum for the particular pattern (step 405 in Figure 4) so that a match is detected if and only if the contents of the candidate vector pattern match the contents of the particular pattern.

The Examiner disagrees with the applicant and maintains all rejections of claims 1-22. All amendments and arguments by the applicant have been considered. It is the Examiner's conclusion that claims 1-22 are not patentably distinct or non-obvious over the prior art of record in view of the references, Wilkes; John (US 5832235 A) in view of Heegard; Chris et al. (US 5703887 A, hereafter referred to as Heegard) as applied in the last office action, filed 06/22/2004. Therefore, the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkes; John (US 5832235 A).

See the Non-Final Action filed 06/22/2004 for detailed action of prior rejections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2-6, 13-16, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkes; John (US 5832235 A) in view of Heegard; Chris et al. (US 5703887 A, hereafter referred to as Heegard).

See the Non-Final Action filed 06/22/2004 for detailed action of prior rejections.

6. Claims 7, 8, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkes; John (US 5832235 A) and Heegard; Chris et al. (US 5703887 A, hereafter referred to as Heegard).

See the Non-Final Action filed 06/22/2004 for detailed action of prior rejections.

7. Claims 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkes; John (US 5832235 A).

See the Non-Final Action filed 06/22/2004 for detailed action of prior rejections.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph D. Torres, PhD
Primary Examiner
Art Unit 2133